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June 13, 1997

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Federal Communications Commission
Office of Secretary

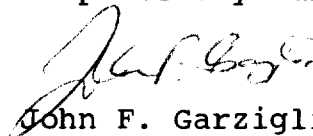
The Honorable William F. Caton
Acting Secretary
Federal Communication Commission
1919 M Street, N.W., Suite 222
Washington, D.C. 20554

RE: Petition for Reconsideration by McPike Communications, Inc.
Fifth Report and Order and Sixth Report and Order
MM Dkt. 87-268

Dear Sir:

Enclosed is the original and nine (9) copies of the Petition for Reconsideration filed on behalf of McPike Communications, Inc. Should you have any questions, please contact undersigned counsel.

Respectfully submitted,


John F. Garziglia

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

TO: The Commission

**PETITION FOR RECONSIDERATION BY
MCPIKE COMMUNICATIONS, INC.**

McPike Communications, Inc., ("McPike") by and through its attorney, requests that the Federal Communication Commission reconsider its adoption of the *Fifth Report and Order* and *Sixth Report and Order* in the above-referenced proceeding.¹ MCPike is the applicant for new television

¹ In re Advanced Television Systems and their Impact upon the Existing Television Broadcast Service, *Fifth Report and Order*, MM Dkt. 87-268, FCC 97-116 (rel. Apr. 21, 1997) [hereinafter *Fifth R&O*]; In re Advanced Television Systems and their Impact upon the Existing Television Broadcast Service, *Sixth Report and Order*, MM Dkt. 87-268, FCC 97-115 (rel. Apr. 21, 1997) [hereinafter *Sixth R&O*]. By authorization of the Chief of the Office of Engineering and Technology, the Petitioner is filing a combined Petition for Reconsideration of *Fifth R&O* and the *Sixth R&O*. In re Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Order*, MM Dkt. 87-268, DA-97-1193 (rel. June 5, 1997).

stations on Channel 39 in Marshfield, WI, and on Channel 45 in Lincoln, NE.

Both of these applications have been pending for approximately a year and a half. However, neither of these applications received an allotted DTV channel on the DTV Table of Allotments released in the *Sixth Report and Order*. DTV Channel 39 was assigned to Station WEAU-TV in Eau Claire, WI. Additionally, DTV Channel 40 was assigned to WSAW-TV, Wausau, WI. Therefore, even if McPike's application was granted to construct on NTSC Channel 39, it would be forced off of the air as soon as either WEAU-TV or WSAW-TV began broadcasting digitally due to co-channel or adjacent channel spacing restrictions. McPike's Channel 45 application in Lincoln faces the same plight, as DTV Channel 45 was assigned to Station KMTV(TV), Omaha, NE.

Therefore, McPike hereby requests that the Federal Communications Commission reconsider its decision to allocate DTV Channels for just licensed broadcasters, making all other existing and potential broadcasters "non-eligible." McPike notes that it has had its applications for a new construction permit filed with the Commission for over 15 months in both situations, and therefore, should have had its application taken into consideration when the DTV Table was developed. Rather, the Commission only

considered particular licensees for the DTV channel, and, thus, the *Fifth Report and Order* should be reconsidered.

Furthermore, the *Sixth Report and Order* should be reconsidered because the DTV Table of Allotments does not consider current pending applications, as a result of declaring them "non-eligible," and due to the fact that the pending applicants will be forced to look for unused spectrum in order to secure authorization to operate a television station. This search is exacerbated by the failure of the Commission to release the underlying engineering information of the DTV Table of Allotments. It is impossible for future applicants, who have been forced off the spectrum by the DTV Table, to search for unused spectrum without this information.

The problems facing "non-eligible," albeit current, applicants, centers on the fact that the FCC adopted a "Core Spectrum" plan that restricts the available spectrum for future assignment. By restricting available DTV spectrum to only 44-49 channels, it will be very difficult to locate unused spectrum for future applicants, even if the engineering information was available.

Therefore, Petitioner seeks reconsideration of the *Sixth Report and Order* because it has failed to consider pending applications, because it adopted an overly-restrictive spectrum allocation plan, and because it has

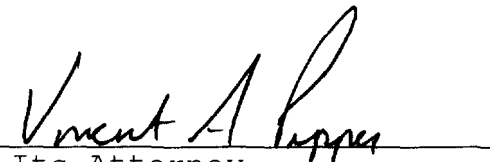
failed to release the underlying engineering information crucial to the future study for unused spectrum.

For these reasons, McPike Communications hereby petitions the Federal Communications Commission to reconsider the adoption of the *Fifth Report and Order*, and *Sixth Report and Order*, so that it may develop a new, and equitable method to protect current applicants, and so that it may release the engineering information necessary for a reasoned study.

Respectfully submitted,

McPike Communications, Inc.

By:

A handwritten signature in black ink, appearing to read "Vincent A. Pepper", is written over a horizontal line.

Its Attorney
Vincent A Pepper

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June 13, 1997

CERTIFICATE OF SERVICE

I, Lisa A. Skoritoski, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 13th day of June, 1997, copies of the foregoing Petition for Reconsideration were mailed, postage prepaid, to the following:

Honorable Reed E. Hundt *
Chairman
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Honorable James H. Quello *
Commissioner
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Honorable Rachelle B. Chong *
Commissioner
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Honorable Susan Ness *
Commissioner
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554



Lisa A. Skoritoski

*Via Hand Delivery